

**Statement of the City of Detroit Water and Sewerage Department**

**Regarding SB 539 and 540 S-1**

**9 a.m. October 29, 2013**

**House Energy and Technology Committee**

The City of Detroit Water and Sewerage Department offers the following concerns regarding the above referenced legislation.

The **two primary concerns** with this legislation include:

1. **Termination of Long Standing Governmental Immunity** (See SB 539 and SB 540 S-1 sec 8), and
2. **Imposition of New and Substantial Penalties** upon local government alleged to be non-compliant with 21 pages of requirements, and far in excess of those imposed upon others, working and located in municipal rights of way and other underground locations. (See SB 540 Sec 12)

**Tax Increase:** To the extent these changes to long standing immunity laws are imposed, together with the specter of new and substantial penalties, they will result in a substantial tax increase for local residents across the state.

Municipalities will necessarily pay all attorney fees to defend against such claims, as well as any settlements or judgments out of tax payer dollars.

In the event insurance is available for this new found liability, premiums will be paid by local resident tax dollars.

**No Federal Requirement:** The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011; Public Law 112-90 enacted January 3, 2012, and certain federal grant funding thereunder, has been offered as a justification for this new loss of immunity and penalties. Such is not the case. The Federal Act requires only that our Miss Dig Statute "*may not exempt municipalities...*" from compliance with the Act. (See sec 3(a)(2) of the Federal Act) The U.S. Department of Transportation Pipeline & Hazardous Materials Safety Administration has confirmed that ending tort immunity is not necessary for compliance with the Federal Act.

**Striking SB 539 and Sec 12 of SB 540 S-1 Preserves much needed Local Community Resources and Local Tax Dollars.**

**The balance of SB 540 (and for that matter, the current 4 page Miss Dig Statute, in place since 1974) is compliant with the Federal Act.**

